The Heritage Foundation

LEGAL MEMORANDUM

No. 372 | FEBRUARY 20, 2025

EDWIN MEESE III CENTER FOR LEGAL & JUDICIAL STUDIES

Prime Targets for Congressional Review Act Nullification

GianCarlo Canaparo and Paul J. Larkin

KEY TAKEAWAYS

The Congressional Review Act allows Congress, by simple majority vote in both houses, to nullify federal rules within a set period.

Additionally, Congress is not limited to regulations; it can (and should) also use the CRA to nullify guidance documents, manuals, opinion letters, and the like.

Congress should use the CRA to erase vast swathes of Joe Biden's regulatory blitz—the highest regulatory costs imposed by any Administration in American history.

Introduction

Just as the Russian czars ruled by ukases, President Joe Biden governed by regulation. Rather than work with Congress to pass laws, Biden kicked federal agencies into overdrive, imposing $1.8 trillion in total regulatory costs on the country in four years—the highest regulatory costs imposed by any Administration in American history.[1] To put this number in perspective, the second-place figure, imposed by Barack Obama over eight years, was $493.6 billion.[2] That is only 27 percent of the costs that Biden imposed in half the time. In Biden's last year in office alone, his bureaucrats published 107,262 pages in the *Federal Register*, the largest number in U.S. history.[3] Those pages contained 3,248 rules.[4] In Biden's last three weeks in office, his Administration published 7,641 pages in the *Federal Register* generated by 243

This paper, in its entirety, can be found at **https://report.heritage.org/lm372**

The Heritage Foundation | 214 Massachusetts Avenue, NE | Washington, DC 20002 | (202) 546-4400 | heritage.org

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

new rules, 38 of which were published after Donald Trump was sworn in as President.[5]

Biden's regulatory blitz allowed him to impose his policies on the country without seeking compromise and without obtaining the democratic legitimacy that comes from it. One can understand why an unprincipled President might succumb to that temptation despite its obvious downsides, which include undermining the deliberative and consensus-forming process of representative lawmaking. But even the most unscrupulous President ought not to be blind to another downside of unilateral rulemaking: its lack of staying power. What one President builds with executive orders, another can tear down with his own.

Congress can also join the demolition thanks to a law called the Congressional Review Act (CRA).[6] The CRA allows Congress, by simple majority vote in both houses and without the possibility of a Senate filibuster, to nullify federal rules within a set period after they are published and submitted to Congress (or, if a rule has not been submitted to Congress, at any time).[7] There are three key benefits of CRA nullification over rescission by a subsequent President. First, it is faster. A new President can erase some of his predecessor's work with the stroke of a pen—but not all of it. Regulations, for example, usually cannot be erased except through the same long process by which they are written in compliance with the Administrative Procedure Act (APA). Using the CRA, however, Congress can wipe regulations away in an instant. Second, CRA nullification is permanent absent new legislation. One President could see his rules wiped away by a second President, but a third President could restore them. If Congress nullifies a rule, however, then no President may reissue that rule or any rule that is "substantially the same" unless Congress "specifically authorize[s]" it.[8] The third benefit of CRA nullification is that it is immune from judicial review. The CRA denies judges any ability to second-guess Congress's decision to nullify a rule.[9] Once done, no judge can try to unwind it.

"Rules" under the CRA include many things, from formal regulations to guidance documents, from manuals to opinion letters.[10] The definition is borrowed from the APA, and as one circuit court has explained, an APA "rule" includes "virtually every statement an agency may make."[11] Congress need not, however, get bogged down with analysis of whether a certain agency action meets the federal courts' definition of a "rule," because the lack of judicial review of CRA nullification means that Congress ultimately gets to decide whether a document is a rule or not.

Again, although there is a time limit for Congress to consider nullifying rules that *were* submitted to Congress, there is no time limit for rules that were *never* submitted.[12] Otherwise, an agency could defeat the purpose of the CRA just by sitting on a rule—that is, by violating the CRA. The takeaway

from all this is that huge swathes of Biden's aggressive regulatory agenda are potentially subject to CRA nullification. Congress could not only greatly accelerate Trump's efforts to drain Biden's deluge of rules, but also guarantee that no future President could put them back on his own.

The full list of rules that qualify for nullification is unknowably long. It would be impracticable for two people alone to compile a full list, but anyone interested in looking for targets can comb through the Government Accountability Office (GAO) searchable database of rules[13] or the Regulatory Studies Center's CRA dashboard.[14] Bear in mind, however, that those databases do not include everything because the CRA definition of "rules" includes things that may not appear in the *Federal Register*. Additionally, the GAO's database, for unknown reasons, is incomplete, and some rules that appear in the *Federal Register* do not appear in the GAO database, even when the agency announced that it would submit the rule to the GAO.

Below, we have identified a handful of targets that, in our view, are most deserving of congressional nullification. Some of Biden's highest-profile rules do not appear in this list because they were published and submitted to Congress before August 16, 2024, which is the CRA's cutoff date for the current Congress.[15] Additionally, some of Biden's highest-profile guidance documents, such as various guidance documents under Title IX, do not appear because the Trump Administration has already rescinded them.[16]

Prime Targets

1. *Promoting the Rule of Law Through Improved Agency Guidance Documents Rescission,* 89 FR 102703.

   Summary: During his first term, Donald Trump issued an executive order that limited agencies' ability to regulate parties through mere "guidance" documents.[17] The Obama Administration was infamous for doing that. Officials would issue guidance in lieu of regulations that, despite being labeled as "guidance," were in effect binding regulations. To end this practice, Trump forbade agencies from treating guidance documents "alone as imposing binding obligations both in law and in practice" and put other accountability measures in place, such as public comment.[18] Biden rescinded Trump's executive order, so every agency that had put policies in place to comply with it had to eliminate them. This is the rule that eliminated those policies for the Department of Commerce. The rules that eliminated those policies for other departments should also be nullified.

2. *Income-Contingent Repayment Plan Options*, 90 FR 3695.

   Summary: This rule, finalized just days before Biden left office, was his last attempt to evade judicial rulings against his increasingly complex schemes to foist college-loan debt onto the taxpayers. Although less audacious than his previous attempts, this one nonetheless expanded the availability of income-based repayment plans, extended the application period by years, and loosened eligibility requirements.

3. *Student Debt Relief Based on Hardship for the William D. Ford Federal Direct Loan Program (Direct Loans); the Federal Family Education Loan (FFEL) Program; the Federal Perkins Loan (Perkins) Program; and the Health Education Assistance Loan (HEAL) Program*, 89 FR 87130.

   Summary: This is another rule that passed some college loans on to the taxpayers and otherwise loosened college graduates' duty to repay their loans.

4. *Final Scientific Integrity Policy*, 89 FR 92830.

   Summary: The Department of Health and Human Services (HHS) produces a document called the "Scientific Integrity Policy" that lays out the methods and principles that guide its scientific research and communications. This rule makes "indigenous knowledge" a key part of the department's Scientific Integrity Policy. The policy states that indigenous knowledge should be considered alongside the knowledge gathered from the scientific method. A Fact Sheet (which should also be CRA-nullified) put out by the Administration for Native Americans (an HHS subagency) says that indigenous (also called "traditional" or "native") knowledge "encompasses all that is known about the world around us and how we apply that knowledge in relation to those beings, physical and otherwise, that share our world."[19] It adds that "from this knowledge emerges our sense of place, our language, our ceremonies, our cultural identities, and our way of life."[20] HHS fails to explain the source of this knowledge and whether it is subject to testing, verification, replicability, or other proven methods of determining its reliability. Accordingly, it should not be used for any purpose relating to science, health, or public policy.

   Other rules that make "indigenous knowledge" a basis of the government's decision-making include:

a. *Indigenous Knowledge Guidance Implementation Memo,* Department of the Interior.[21]

b. *Chumash Heritage National Marine Sanctuary,* 89 FR 83554.

c. *NOAA Guidance and Best Practices for Engaging and Including Indigenous Knowledge in Decision-Making,* National Oceanic and Atmospheric Administration.[22]

d. *Indigenous Knowledge and Traditional Ecological Knowledge,* myriad documents baking the concept into the policies of the National Park Service.[23]

e. *Forest Service Handbook,* U.S. Department of Agriculture, Forest Service.[24]

f. *Incorporating Indigenous Knowledges into Federal Research and Management: Tribal Policies around Indigenous Knowledges,* U.S. Geological Survey.[25]

g. *301 DM 7 Departmental Responsibilities for Consideration and Inclusion of Indigenous Knowledge in Departmental Actions and Scientific Research,* U.S. Department of the Interior.[26]

5. *Federal Management Regulation; Updating the FMR with Diversity, Equity, Inclusion, and Accessibility Language,* 89 FR 67865.

   Summary: This rule rewrites the Federal Management Regulation (the set of policies governing how the federal government manages its properties) to make it "more inclusive" by eliminating any "gender-specific pronouns." The government has no business baking gender ideology into its administrative procedures.

6. *Education Department General Administrative Regulations and Related Regulatory Provisions,* 89 FR 70300.

   Summary: This rule updates myriad general administrative regulations that govern how the Department of Education conducts its business. Much of the rule is unobjectionable, but a key part of it creates an illegal standard for grants that gives preferences based on

"gender; race; ethnicity; color; national origin" and other illegitimate factors. These illegitimate preferences were incorporated into many Department of Education actions including, for example, its solicitations for government contractors and for grant recipients.[27]

7. *Medicare and Medicaid Programs and the Children's Health Insurance Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year 2025 Rates; Quality Programs Requirements; and Other Policy Changes,* 89 FR 68986.

   Summary: Despite its dry and technical name, this rule furthers an older rule that made race and ethnicity a central focus of hospital quality programs under the name "health equity." It relies on studies that unscientifically associate health disparities with America's arbitrary and medically irrelevant race labels.[28]

8. *Medicare Program; Calendar Year (CY) 2025 Home Health Prospective Payment System (HH PPS) Rate Update; HH Quality Reporting Program Requirements; HH Value-Based Purchasing Expanded Model Requirements; Home Intravenous Immune Globulin (IVIG) Items and Services Rate Update; and Other Medicare Policies,* 89 FR 88354.

   Summary: Like the seventh rule, this one is focused on advancing "health equity" based on race and ethnicity with respect to home health agencies. The focus on health equity in this rule is primarily prospective. The rule "provides updates on potential approaches for integrating health equity," including collecting and tracking data on gender identity and sexual orientation. Thus, this rule serves primarily as a vehicle by which to identify other rules that will push race-based policies onto medical providers, Medicare, and Medicaid. For example, the Centers for Medicare and Medicaid Services still maintains quality reporting programs for regulated entities that measure how well they "advance health equity."[29] Every rule promulgated in support of those programs that either falls within the CRA lookback window or that was never sent to Congress should be nullified.

9. *Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; Quality Reporting Programs, Including the Hospital Inpatient Quality*

Reporting Program; Health and Safety Standards for Obstetrical Services in Hospitals and Critical Access Hospitals; Prior Authorization; Requests for Information; Medicaid and CHIP Continuous Eligibility; Medicaid Clinic Services Four Walls Exceptions; Individuals Currently or Formerly in Custody of Penal Authorities; Revision to Medicare Special Enrollment Period for Formerly Incarcerated Individuals; and All-Inclusive Rate Add-On Payment for High-Cost Drugs Provided by Indian Health Service and Tribal Facilities, 89 FR 93912.

Summary: This rule fully committed the Centers for Medicare and Medicaid Services to "health equity" and baked an obsession with unscientific race labels into much of what that agency does.

10. *Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees: The Universal Notice*, 90 FR 1754.

    Summary: This rule describes the procedures and requirements that the Department of Housing and Urban Development (HUD) uses to give disaster recovery grants. It forces grantees to focus their disaster recovery efforts on "protected classes" and "underserved communities," which are euphemisms for "race, color, national origin, religion, sex" and any groups that a bureaucrat thinks "have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life." Putting aside the discriminatory incentive this creates, the policy does not explain how bureaucrats are to decide whether a group of people has been "systematically denied a full opportunity" and leaves the determination entirely to their unreviewable and unaccountable discretion.

11. *Enhancing Coverage of Preventive Services Under the Affordable Care Act*, 89 FR 85750.

    Summary: This rule imposed "enhancements" on insurance coverage mandates for preventive services, such as contraception, under the Public Health Services Act. The plan requires insurers to cover recommended over-the-counter contraceptives, contraceptive drugs, and contraceptive "drug-led devices," which are products (for example, an intrauterine device) that combine a device and a drug. The rule *claims* that it does not modify federal conscience protections, but as was typical of Biden Administration rules, it fails to explain "(a) how those protections would apply in

practice, (b) the process for obtaining a religious accommodation, or (c) how an organization can appeal an alleged incorrect denial of an accommodation."[30] The effect of this failure is that when a new Administration comes to power that is as hostile to religious organizations as Biden's was, it can use this rule to force those organizations to pay for contraceptives or to incur the immense costs of suing the federal government.

12. *Health and Human Services Adoption of the Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards,* 89 FR 80055.

    Summary: This rule redefines "sex discrimination" for all statutes that HHS enforces to include sexual orientation and gender identity even if the underlying law does not prohibit discrimination on those bases. Similar unauthorized expansions of the law are found throughout Biden-era rules in all sorts of agencies, even ones like the Food and Drug Administration and the Substance Abuse and Mental Health Services Administration where such things might not be expected.[31]

13. *Requirements Related to the Mental Health Parity and Addiction Equity Act,* 89 FR 77586.

    Summary: This vague rule puts even more government controls on health insurance markets by forcing private insurers to provide certain mental health benefits even though, as the rule itself acknowledges, the free market was already moving in this direction on its own. The rule could be used—and indeed explicitly assumes that it will be used—to force insurers to cover transgender surgeries because "gender dysphoria" is "a mental health condition."[32]

14. *Three Waivers for California's Electric-Vehicle Mandate,* 90 FR 642, 88 FR 20688, 90 FR 643.

    Summary: The federal government can claim the power to set uniform emission standards for vehicles unless it waives this "preemption" power and lets a state set its own standards. The Biden Administration waived preemption for California knowing that California would set draconian emissions standards and that carmakers would be forced to comply because it is impracticable to sell one kind of engine in California and another everywhere else. Sure enough,

California enacted a ban on new gas-powered cars to take effect by 2035 and several other onerous restrictions on trucks and off-road vehicles. Biden's waiver functionally makes California's rules national rules and should be nullified. To that end, Environmental Protection Agency Administrator Lee Zeldin has asked Congress to do so.[33]

15. *Waste Emissions Charge for Petroleum and Natural Gas Systems: Procedures for Facilitating Compliance, Including Netting and Exemptions*, 89 FR 91094.

    Summary: This rule imposes additional annual fees on oil and gas producers depending on their methane emissions even though methane emissions "present no human health or environmental threat" in America.[34] The result of this rule will be to increase the cost of oil and gas and, because they power the rest of the economy, the costs of almost everything else.

16. *Energy Conservation Program* (multiple regulations).

    Summary: For all four years of Biden's tenure, his bureaucrats issued rules imposing onerous and expensive "conservation requirements" on household appliances, including gas stoves, gas ovens, refrigerators, air conditioners, dehumidifiers, showerheads, faucets, pool pump motors, and more. All of these regulations represent the nanny state at its most obnoxious, but many of them are outside the CRA look-back window. Nevertheless, some are inside the window and should be nullified. Many of them can be found at the link in this footnote.[35] The sheer quantity of them really ought to move Congress simply to deny the administrative state any power to play nanny with household appliances.

17. *Establishing a 5G Fund for Rural America*, 89 FR 101358.

    Summary: This rule purports to establish a fund whereby the government will pay to have 5G mobile wireless broadband networks built in rural areas. As then-member (and now Chairman) of the Federal Communications Commission Brendan Carr has explained, this fund builds on top of a prior failed program called "Broadband Equity, Access, and Deployment" (BEAD).[36] After more than 1,000 days since BEAD was started, "not one person has been connected to the

Internet by that program. Indeed, not even one shovel worth of dirt has been turned."[37] Rather than fix that program, the Biden Administration threw more money at it. That is manifestly unwise. Congress should nullify it.

18. *Addressing the Homework Gap Through the E-Rate Program*, 89 FR 67303.

Summary: The rule claims to "close the homework gap" (that is, the difficulty that some students have finishing homework because they lack ready access to the Internet) by paying for Wi-Fi hotspots in schools and libraries. The rule does not, however, provide evidence of how paying for hotspots will close this "homework gap." The rule also ignores ample evidence that spending time on the Internet has negative ramifications for students' learning and gives children access to Wi-Fi in situations where their parents and teachers cannot adequately supervise its use.[38] The rule is unwise and a poor use of government funds and should be nullified.

Conclusion

This short list only scratches the surface of the rules that are eligible for CRA nullification. As Congress searches for more targets, it should bear in mind two things. First, Congress is not limited to regulations; it can and should use the CRA to nullify guidance documents, manuals, opinion letters, and the like. Second, the lookback period may be longer than Congress realizes because if a rule was published but *not* submitted to Congress, the lookback period remains open. With those two facts in mind, Congress can and should use the CRA aggressively to erase vast swathes of President Biden's regulatory blitz rapidly and permanently.

GianCarlo Canaparo is a Senior Legal Fellow in the Edwin Meese III Center for Legal and Judicial Studies at The Heritage Foundation. **Paul J. Larkin** is the John, Barbara, and Victoria Rumpel Senior Legal Research Fellow in the Meese Center.

Endnotes

1. Dan Goldbeck, *The Biden Regulatory Record*, American Action Forum, Jan. 29, 2025, https://www.americanactionforum.org/insight/the-biden-regulatory-record/.
2. *Id*.
3. Clyde Wayne Crews, Jr., *Biden's Regulatory Big Bang: A Parting Gift Trump Is Set to Return*, Forbes, Jan. 20, 2025, https://www.forbes.com/sites/waynecrews/2025/01/20/bidens-regulatory-big-bang-a-parting-gift-trump-is-set-to-return/. Consider this: Laid end to end, 107,262 pages, each 11 inches long, equals 1,179,882 inches or 18.6 miles.
4. *Id*.
5. Eric Boehm, *Bident's Record-Breaking Regulatory Run*, Reason, Jan. 31, 2025, https://reason.com/2025/01/31/bidens-record-breaking-regulatory-run/.
6. *See generally* Paul J. Larkin, *The Return of the Congressional Review Act*, Heritage Found. Legal Memo. No. 367, Dec. 30, 2024, https://www.heritage.org/the-constitution/report/the-return-the-congressional-review-act; Paul J. Larkin, Jr., *Reawakening the Congressional Review Act*, 41 Harv. J. L. & Pub. Pol'y 187 (2018).
7. Larkin, *The Return of the Congressional Review Act*, *supra* note 6, at 6 ("The consequence of failing to submit a rule to Congress is that, because the clock never begins to run, Congress and the President can take advantage of the CRA's fast-track procedure to nullify a rule that was issued years earlier.... Any unsubmitted rule is therefore a potential subject of a CRA nullification, regardless of how long ago it was adopted.").
8. 5 U.S.C. § 801(b)(2).
9. 5. U.S.C. § 805 ("No determination, finding, action, or omission under this chapter shall be subject to judicial review.").
10. Larkin, *The Return of the Congressional Review Act*, *supra* note 6, at 4 ("While not every agency document or position is a 'rule' for CRA purposes, numerous parties—such as the federal courts, the U.S. Department of Justice, the Government Accountability Office (GAO), the Congressional Research Service, and various scholars—have concluded that the term 'rule' should be read and applied broadly to ensure that Congress can review any generally applicable implementation, interpretation, or prescription of law or policy by unelected agency officials before they can direct others with respect to what federal law prohibits, requires, or allows.").
11. Avoyelles Sportsmen's League v. Marsh, 715 F.2d 897 (5th Cir. 1983).
12. *Id*. at 6; *see also* Roger Severino & Paul J. Larkin, *Trump Can Use Congressional Review Act to Nullify Biden's Rules*, Daily Signal, Jan. 15, 2025, https://www.dailysignal.com/2025/01/15/congress-must-act-now-reverse-bidens-regulatory-end-run/.
13. *See* Government Accountability Office, Congressional Review Act Search Database of Rules, https://www.gao.gov/legal/congressional-review-act/search-database-of-rules#s-skipLinkTargetForFilterOptions.
14. *See* George Washington University Regulatory Studies Center, Congressional Review Act Window Exploratory Dashboard, https://regulatorystudies.columbian.gwu.edu/congressional-review-act-window-exploratory-dashboard.
15. The CRA cutoff date is the 60th legislative day prior to the end of the last Congress. Using the Senate's official calendar to calculate the cutoff sets it on August 16, 2024. *See* Senate of the United States, One Hundred Nineteenth Congress, Calendar of Business, Jan. 9, 2025, https://www.govinfo.gov/content/pkg/CCAL-119scal-2025-01-09/pdf/CCAL-119scal-2025-01-09.pdf.
16. *See*, *e.g.*, U.S. Department of Education, *U.S. Department of Education Rescinds Biden 11th Hour Guidance on NIL Compensation*, Feb. 12, 2025, https://www.ed.gov/about/news/press-release/us-department-of-education-rescinds-biden-11th-hour-guidance-nil-compensation (last visited Feb. 14, 2025).
17. *Promoting the Rule of Law Through Improved Agency Guidance Documents*, E.O. 13891, 84 FR 55235 (Oct. 15, 2019).
18. *Id*.
19. Administration for Native Americans, *Fast Facts About Traditional Knowledge and Responsible Partnerships with Indigenous Communities*, Dec. 2012, https://acf.gov/ana/fact-sheet/fast-facts-about-traditional-knowledge-and-responsible-partnerships-indigenous.
20. *Id*.
21. U.S. Department of the Interior, Indian Affairs, *Indigenous Knowledge Guidance Implementation Memo*, https://www.bia.gov/events/indigenous-knowledge-guidance-federal-agencies (last visited Feb. 25, 2025).
22. National Oceanic and Atmospheric Administration, *NOAA Guidance and Best Practices for Engaging and Including Indigenous Knowledge in Decision-Making*, https://www.noaa.gov/media/file/noaa-indigenous-knowledge-guidance-and-appendix (last visited Feb. 15, 2025).
23. *See generally* National Park Service, *Index: Indigenous Knowledge and Traditional Ecological Knowledge*, https://www.nps.gov/subjects/tek/index.htm (last visited Feb. 15, 2025).
24. *See* Forest Service, *Update Your Lexicon: Indigenous Knowledge Replaces Native Knowledge*, May 23, 2024, https://www.fs.usda.gov/inside-fs/delivering-mission/excel/update-your-lexicon-indigenous-knowledge-replaces-native (last visited Feb. 15, 2025).
25. U.S. Geological Survey, *Incorporating Indigenous Knowledges into Federal Research and Management: Tribal Policies Around Indigenous Knowledges*, https://www.usgs.gov/programs/climate-adaptation-science-centers/science/incorporating-indigenous-knowledges-federal-1 (last visited Feb. 15, 2025).

26. U.S. Dept. of the Interior, *301 DM 7 Departmental Responsibilities for Consideration and Inclusion of Indigenous Knowledge in Departmental Actions and Scientific Research*, Dec. 5, 2023, https://www.doi.gov/document-library/departmental-manual/301-dm-7-departmental-responsibilities-consideration-and (last visited Feb. 5, 2025).
27. *See*, *e.g.*, *Applications for New Awards; American Indian Vocational Rehabilitation Services*, 89 FR 88041, Nov. 6, 2024, https://www.federalregister.gov/documents/2024/11/06/2024-25774/applications-for-new-awards-american-indian-vocational-rehabilitation-services; *Applications for New Awards; Independent Living Services for Older Individuals Who Are Blind—Independent Living Services for Older Individuals Who Are Blind Training and Technical Assistance*, 90 FR 3188, Jan. 14, 2025, https://www.federalregister.gov/documents/2025/01/14/2025-00533/applications-for-new-awards-independent-living-services-for-older-individuals-who-are.
28. For a discussion of how unscientific America's racial categories are and how dangerous it is to use them in medical research and treatment, *see* David E. Bernstein, Classified: The Untold Story of Racial Classification in America 167 (2022) ("Not only is there no scientific rationale for requiring the use of Directive 15 categories [Directive 15 is the legal source of America's racial categories] in biomedical research, doing so is counterproductive....").
29. *See*, *e.g.*, Centers for Medicare and Medicaid Services, *Skilled Nursing Facility (SNF) Quality Reporting Program (QRP) Health Equity*, https://www.cms.gov/medicare/quality/snf-quality-reporting-program/health-equity (last visited Feb. 15, 2025).
30. Eric Kniffin & Sam Lucas, *Public Comment of the Ethics and Public Policy Center on CMS-9887*, Sept. 26, 2024, https://eppc.org/wp-content/uploads/2024/11/EO12866-Enhancing-Coverage-of-Preventive-Serv-under-ACA-2024-09-26.pdf.
31. *See*, *e.g.*, *Food Date Labeling*, 89 FR 96205, Dec. 4, 2024, https://www.federalregister.gov/documents/2024/12/04/2024-27810/food-date-labeling; *see also Agency Information Collection Activities: Submission for OMB Review; Comment Request*, 89 FR 101613, Dec. 16, 2024, https://www.federalregister.gov/documents/2024/12/16/2024-29515/agency-information-collection-activities-submission-for-omb-review-comment-request (proposing to incorporate "sexual orientation" and "gender identity" into data gathered by the Substance Abuse and Mental Health Services Administration to "enhanc[e] behavioral health equities.").
32. *Requirements Related to the Mental Health Parity and Addiction Equity Act*, 89 FR at 77594.
33. EPA, *Press Release: Trump EPA to Transmit California Waivers to Congress in Accordance with Statutory Reporting Requirements*, Feb. 14, 2025, https://www.epa.gov/newsreleases/trump-epa-transmit-california-waivers-congress-accordance-statutory-reporting.
34. *See* Nicolas Loris, *Methane Regulations Add to the Price Tag of the Administration's Climate Plan*, Heritage Found. Issue Brief No. 4341 at 1, Feb. 3, 2015, https://www.heritage.org/environment/report/methane-regulations-add-the-price-tag-the-administrations-climate-plan.
35. Government Accountability Office, Searchable Database: "Energy Conservation Program," https://www.gao.gov/legal/congressional-review-act/search-database-of-rules?processed=1&title=Energy%20Conservation%20Program&type=all&priority=all&page=0.
36. Dissenting Statement of Commissioner Brendan Carr, *Establishing a 5G Fund for Rural America*, Aug. 28, 2024, https://docs.fcc.gov/public/attachments/FCC-24-89A3.pdf.
37. *Id*. at 1.
38. *See* Annie Chestnut, Comment on WC Docket No. 21-31, Mar. 29, 2024, https://static.heritage.org/2024/Regulatory_Comments/3-29-24%20Heritage%20ex%20parte%20comment%20FCC%20E-rate%20funds%20for%20wi-fi%20hotspots.pdf.